

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

WESTERN DIVISION
NO. 5:06-CR-37-BO
NO. 5:12-CV-543-BO

FILED IN OPEN COURT *UR*
ON 9/12/2012
Julie A. Richards, Clerk
US District Court
Eastern District of NC

MICHAEL JERMAINE GREENE,)
 Petitioner,)
)
 v.)
)
UNITED STATES OF AMERICA,)
 Respondent.)


ORDER

This matter is before the Court on petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [DE 35]. Petitioner, Mr. Greene, asserts that he is not guilty of having been a felon in possession of a firearm in violation of 18 U.S.C. § 922(g) in light of the Fourth Circuit's holding in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011) (en banc).

The government does not oppose relief in Mr. Greene's case, stating that it waives its statute-of-limitations defense and asking that the Court not enforce the waiver language in Mr. Greene's plea agreement [DE 38].

In light of the foregoing and the hearing held in this matter on September 12, 2012, the Court accepts the government's position and GRANTS Mr. Greene's § 2255 motion. The judgment, conviction, and sentence entered in this matter on November 3, 2006, are hereby VACATED.

SO ORDERED, this 12 day of September, 2012.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE